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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,559	12/11/2003	Ted. F. Slupesky	BEA9-2003-0021-US1	8775
49056	7590	11/15/2006		
LIEBERMAN & BRANDSDORFER, LLC 802 STILL CREEK LANE GAITHERSBURG, MD 20878			EXAMINER LY, CHEYNE D	
			ART UNIT	PAPER NUMBER
			2168	

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/733,559

Applicant(s)

SLUPESKY ET AL.

Examiner

Cheyne D. Ly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicants' arguments filed August 25, 2006 have been fully considered but they are not deemed to be persuasive. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.
2. Claims 1-20 are examined on the merits.

CLAIM REJECTIONS - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 14 and 16-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
5. This rejection is maintained with respect to claims 14 and 16-20, as recited in the previous office action mailed June 15, 2006.
6. Claims 14 and 16-20 are directed to an article comprising a computer-readable signal-bearing medium such as "carrier signal". However, the carrier signal does not fall within any of the categories of patentable subject matter set forth in 35 U.S.C. 101. Therefore, claims 14 and 16-20, which embodies the carrier signal as the claimed invention, is not statutory.

RESPONSE TO ARGUMENTS

7. Applicant argues via claim amendment to overcome the nonstatutory rejection is not persuasive because the claims embodies nonstatutory subject matter as disclosed in the

instant specification, page 3, last paragraph. It is recommended that Applicant amend the claims to recite “a recordable data storage medium” (claim 15) to overcome the above rejection.

CLAIM REJECTIONS - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Lennon et al.

(US 20020107973A1) (Lennon hereafter).

10. The addition of the Microsoft Dictionary 3rd Edition (page 113) has been necessitated by the claim amendments.

CLAIM INTERPRETATIONS

11. The instant specification exemplifies “managed object” as hardware devices which may include storage devices, servers, and routers (page 4, last paragraph). Lennon discloses the below cited method, computer system and article as directed to storage devices and servers (Figures 9-11). Therefore, the disclosure of Lennon has been interpreted as “managed object.” Further, the disclosure of the “get” (page 5, column 1, [0074]) command by Lennon has been interpreted as a function as exemplified by the instant specification (page 6, lines 1-16).

BASIS FOR PRIOR ART

12. In regard to claim 1, Lennon discloses a method of communicating with a managed object, comprising:
 - a. Dynamically generating (page 4, column 2, [0073], especially the disclosure of “dynamically generating XML descriptions that conform to these schemas”) an interpretable format from a meta data description for a function of said object (claim 1);
 - b. Interpreting an operator input command (Abstract etc., and page 9, [0101]) according to said format (claim 92, and page 9, column 1, [0100], to page 10, column 1, line 7); and
 - c. Executing said function to manage configuration of said object in response to said interpretation of said operator input command (claim 115, and page 17, [0192]).
13. In regard to claim 2, Lennon discloses translating a response received from said managed object into said interpretable format (page 4, column 2, [0073], and page 5, column 1, [0077]).
14. In regard to claim 3, Lennon discloses meta data description for a function of said object includes a uniform resource locator to said function (page 5, column 1, [0074] and [0078], and page 9, column 1, [0103]).
15. In regard to claim 4, Lennon discloses the metadata describes one or more internal commands associated with said functions (page 5, column 1, [0074]). It is noted that the “get” command described by Lennon is consistent type of internal command exemplified by the instant specification on page 6, lines 1-16.

16. In regard to claim 5, Lennon discloses dynamically generating (page 5, column 1, [0075]) an interpretable format from a metadata description (claim 1) includes building a data structure to inform an operator of a required format for communication with said managed object (page 5, column 2, [0084], to page 8, column 1, [0099]).
17. In regard to claim 6, Lennon discloses communicating with said managed object in real-time (page 9, [0109]).
18. In regard to claim 7, Lennon discloses the step of dynamically generating an interpretable format from a metadata description for a function of said object includes an interface such as a graphical user interface (Figures 1 and 2, especially item 101, "Media Browser").
19. In regard to claims 8-20, Lennon discloses the above cited method being implemented in a computer system and article comprising a computer-readable signal-bearing medium (Figures 1 and 2).

RESPONSE TO ARGUMENTS

20. Applicant argues that "there is no teaching within Lennon et al. to manage configuration of its hardware device." Applicant's argument is not persuasive as discussed below. The limitation of "configuration" has been attributed with the customary and ordinary meaning defined by the Microsoft Dictionary 3rd Edition (page 113). The citation of Lennon above reasonably anticipates the argued limitations. For example, claim 115 of Lennon discloses "the program is configured to make a computerized device [hardware] execute a procedure" in response to a user. Further, Lennon discloses "the configuration of the metadata server [hardware]" in response to results from requests (page 17, [0192]).

Therefore, the disclosure reasonably anticipates the argued limitations as supported the Microsoft Dictionary 3rd Edition (page 113).

CONCLUSION

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
22. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
23. Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent

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Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

24. For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199. The USPTO's official fax number is 571-272-8300.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Dune Ly, whose telephone number is (571) 272-0716.

The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.

26. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Vo, can be reached on (571) 272-3642.

C. Dune Ly 
Patent Examiner
11/8/06


TIM VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100